

1 Leonard V. Sominsky #20013
2 **LEONARD V. SOMINSKY ESQ., PC.**
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4 Phoenix, Arizona 85012
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5 Counsel for Defendants

6 LS000061-00/LVS
7 Answer-WF-TB.wpd

8 **IN THE UNITED STATES BANKRUPTCY COURT**

9 **FOR THE DISTRICT OF ARIZONA**

10) No. 09-15380-ECF-SSC
11 In re:)
12) Adversary #09-AP-01292
13 Waunita R. Weingart)
and) **ANSWER AND AFFIRMATIVE**
14 Alois Craig) **DEFENSES**
15)
16 Debtors.)
17 _____) CHAPTER 7
18)
19)
20 Wells Fargo Bank, N.A.,)
21)
22)
23 Movant)
v.)
24)
25 Waunita R. Weingart)
26 and)
27 Alois Craig)
28 Respondents.)
_____)

COME NOW, the Defendants, by and through their undersigned counsel LEONARD V. SOMINSKY ESQ., PC., and for their Answer allege as follows:

1. That they admit the allegations of Paragraph 1 through 8.
2. That the Defendants are without knowledge or information

- 1 sufficient to form a belief as to the truth of the
2 allegations in paragraph 14 and therefore denies same.
3 3. That they admit the allegations of Paragraph 10 that the
4 Defendants used Colorado Country & Community Title, LLC
5 and Real Estate Title, LLC, however the Defendants are
6 without knowledge or information sufficient to form a
7 belief as to the truth of the other allegations in that
8 paragraph.
9
10 4. Defendants Deny all allegations in Paragraph 9, 11 and
11 13.
12
13 5. That the Defendants are without knowledge or information
14 sufficient to form a belief as to the truth of the
15 allegations in paragraph 14 and therefore denies same.
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17 6. Defendants Deny the allegations in Paragraph 12, and the
18 Defendants are without knowledge or information
19 sufficient to form a belief as to the when the deeds were
20 recorded and therefore denies same.
21
22 7. Defendants Deny the allegations in Paragraph 15, and the
23 Defendants are without knowledge or information
24 sufficient to form a belief as to the intent of the
25 lenders, or the amount of the loans and therefore denies
26 same.
27
28 8. Defendants Deny all allegations in Paragraph 16 and 17.
9. Defendants Deny all allegations not specifically
admitted.

AFFIRMATIVE DEFENSES

Defendants affirmatively allege that the Plaintiff's Complaint fails to state a claim for which relief can be granted; that plaintiff's allegations of Fraud fail to meet the requirements of B.R.C.P. 7009 and F.R.C.P. 9; that Plaintiff's Complaint is further barred by virtue of the statute of limitations, collateral estoppel, waiver, release, impracticability, Substantial Performance, Failure of Consideration, Failure of Condition, unconscionability and that the Plaintiff caused or contributed to his own injury, if any.

WHEREFORE, the Defendants seek a determination from this Court that the debts owed to Plaintiff are completely dischargeable, that the Debtors are entitled to a Discharge and further seek Judgment against Plaintiff as follows:

- i. For the Defendants attorneys fees herein incurred and expended;
 - ii. For the Defendants Court costs herein incurred and expended;
 - iii. For such other relief as this Court may deem just and proper.

DATED this November 5th, 2009.

/s/ Bar # 20013
Leonard V. Sominsky
LEONARD V. SOMINSKY ESQ., PC.
3839 N. 3rd Street, Suite 205

1 Phoenix, Arizona 85012
2 Telephone: (602) 256-9800
3 Counsel for Defendants

4 Original filed this 5th day of
5 November 2009, with:

6 U.S. Bankruptcy Court
7 230 N. First Ave
Phoenix, AZ 85003

8 **COPY** of the foregoing
9 mailed this this 5th day of
November 2009, to:

10 Roger W. Brown
11 PO Box 32967
12 Phoenix, AZ 85064
Trustee

13 Leonard McDonald, Esq.
14 Tiffany & Bosco
15 2525 E. Camelback Rd. #300
Phoenix, Arizona 85016

16
17 By /s/ Leonard V. Sominsky
18 Bar # 20013

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